

From: Dave Cottingham
To: Microsoft ATR
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Subject: Microsoft Settlement

I would like to take this opportunity to comment on a few of the ways the Proposed Final Judgement (PFJ) in USA vs. Microsoft fails to meet the requirement under the law of curbing future anticompetitive behavior.

In specifying to whom Microsoft must disclose documentation of APIs and protocols, the PFJ contains so many loopholes that Microsoft could deny access to this information at will. These restrictions are unnecessary: Microsoft should be required to make these disclosures publicly, not to selected third parties. Restricting this information only serves anticompetitive purposes.

The description of which APIs and protocols must be disclosed is quite narrow and full of loopholes. In particular, the exclusion from disclosure of "anti-piracy, anti-virus, software licensing, digital rights management, and authentication systems" must be lifted, as almost any API will contain these elements, and interoperability will be impossible without knowledge of these aspects of the system.

The Technical Committee as described in the PFJ will be powerless to verify compliance. All members of this committee should be appointed by the court, not by Microsoft; they should be paid by the government, not Microsoft; they should have real investigative powers; and so far from being barred from disclosing compliance violations, the committee should be required to publicly report them.

Please consider modifying the PFJ to make it effective. This is not the first time Microsoft has been through the courts on antitrust violations; it would be to the benefit of the American people to fix the problem this time.

Sincerely,
Dave Cottingham